

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:06CV355**

<b>ALBERT F. BISHOP, JR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>Vs.</b>	)	<b><u>MEMORANDUM AND</u></b>
	)	<b><u>ORDER STAYING</u></b>
<b>GREEN TREE SERVICING, LLC,</b>	)	<b><u>PROCEEDINGS</u></b>
	)	
<b>Defendant.</b>	)	
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**THIS MATTER** is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed February 12, 2007.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On February 12, 2007, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendant's

motion to dismiss and to compel arbitration. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on March 1, 2007. No written objections to the Memorandum and Recommendation have been filed by the Plaintiff.

Defendant has responded to the Memorandum and Recommendation requesting this Court to dismiss those claims subject to dismissal pursuant to Fed. R. Civ. P. 12(b)(6) and compel the remaining claims to arbitration.

The arbitration agreement entered into by the parties clearly states that they will submit "all disputes arising under case law, statutory law and all other law, including, but not limited to, all contract, tort and property disputes" to binding arbitration. The claims which the Defendant seeks dismissed fall within this provision of the arbitration agreement. The Court therefore finds that the Defendant's response to the Memorandum and Recommendation is to no avail.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court will follow the Magistrate Judge's

Recommendations to compel the parties to engage in binding arbitration as to the claims raised in this action and will stay this action pending completion of that arbitration.

**IT IS, THEREFORE, ORDERED** that the Defendant's motion to dismiss is **DENIED**.

**IT IS FURTHER ORDERED** that the Defendant's motion to compel arbitration is **ALLOWED**, and this matter is hereby referred to binding arbitration as outlined in the Manufactured Home Retail Installment Contract attached to the Defendant's motion herein.

**IT IS FURTHER ORDERED** that this matter is hereby **STAYED** pending arbitration. Upon the completion of arbitration, the parties shall comply with the provisions of the Federal Arbitration Act and shall notify the Court.

Signed: March 28, 2007



Lacy H. Thornburg  
United States District Judge

